



Christine O. Gregoire

# ATTORNEY GENERAL OF WASHINGTON

900 Fourth Avenue #2000 • Seattle WA 98164-1012

November 14, 2003

The Honorable Gerald A. Horne  
Pierce County Prosecuting Attorney  
County City Building  
Room 946  
930 Tacoma Ave. South  
Tacoma, WA 98402-2171

**Re: Criminal Referral Pursuant to RCW 43.10.232 (Assistant Chief Catherine Woodard).**

Dear Mr. Horne;

On May 2, 2003, your office formally requested that the Office of the Attorney General initiate a criminal investigation into alleged improprieties that surfaced following former Tacoma Police Chief David Brame's murder of his wife, Crystal, and his immediate suicide after he mortally wounded her on April 26, 2003. We received your written request on May 5, 2003. Pursuant to the terms of RCW 43.10.232, we accepted jurisdiction and responsibility for any criminal cases that were referred to our office as a result of the investigation.<sup>1</sup> The investigating entity was the Washington State Patrol.<sup>2</sup>

As we discussed on the telephone prior to your formal written request, your need for our assistance first arose in the wake of allegations that then acting Tacoma Police Chief Catherine

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<sup>1</sup> § 43.10.232. Concurrent authority to investigate crimes and initiate and conduct prosecutions -- Payment of costs.

(1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

(a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;

\* \* \* \*

(2) Such request or concurrence shall be communicated in writing to the attorney general.

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<sup>2</sup> The criminal investigation was conducted by the Washington State Patrol pursuant to their general criminal law enforcement powers, the request of city officials, and a written agreement with the City of Tacoma relating to costs.



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Woodard had trespassed at the residence of Lane and Patty Judson, Crystal Brame's parents.<sup>3</sup> Crystal Brame was residing with her parents at the time.

In your letter, however, the jurisdiction that you conferred on our office was not merely limited to the Catherine Woodard matter. Your grant of jurisdiction covered "...all aspects of the suicide of former Tacoma Police Chief David Brame, and [at that time] the attempted murder of his wife, Crystal Brame."<sup>4</sup> The Washington State Patrol took a very broad and deliberate approach in the criminal investigation. As you can imagine, the increased investigative scope took a correspondingly increased amount of time.

In short, the Patrol went where the investigation took them, assigned their full investigative resources to the effort, and made no pre-determination of where and when that criminal investigation would end. At the beginning of this investigation, the State Patrol Criminal Investigation Division committed five full time and two part time detectives to the investigation. These detectives worked over 6500 hours on this investigation, interviewed over 80 individuals, generated over 6000 pages of reports, and collected numerous items of potential evidence.

## I. INVESTIGATIVE BACKGROUND

It will come as no surprise that the most horrible crime committed in this entire matter will go un-prosecuted. On April 26, 2003, by taking his own life, Chief Brame made it such that he would never be held to answer for the murder of his wife by our criminal justice system. This fact, however, did not deter the scope or thoroughness with which this investigation was conducted. While David Brame is deceased, his actions as Chief of the Tacoma Police Department have been and will continue to be highly relevant in any inquiry involving the workings of the police department he led. As will become evident below, his actions were the subject of a significant portion of our criminal review.

It became apparent early on in our inquiry that to thoroughly exhaust all investigative avenues and every conceivable theory of criminal prosecution, we should enlist the aid and expertise of our federal counterparts. On May 12, 2003, at the request of Attorney General Gregoire, the Federal Bureau of Investigation, the office of John McKay, the United States Attorney for the Western District of Washington, and Mark Larson, Chief Criminal Prosecutor for King County joined in the criminal probe.

In our collective experience, we have never before initiated an investigation that began with such a broad mandate and had so few identified criminal suspects. Many difficulties arose because of the environment in which we conducted this criminal probe. For example, once the criminal inquiry became generally known, many people reported what they believed was misconduct, criminal or otherwise, by employees of the police department and/or other city agencies. The allegations varied in nature and scope and ranged from allegations of sexual misconduct, wrongful termination, misuse of city property, and misfeasance and malfeasance by city officials. There were, as you can imagine, many other allegations and a tremendous amount of this information came to the investigative team in the form of rumor, conjecture, and hearsay.

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<sup>3</sup> Prior to being named Acting Chief in the wake of Chief Brame's suicide, Catherine Woodard was an Assistant Chief with the Tacoma Police Department.

<sup>4</sup> As you know, because the grant of jurisdiction was extended under RCW 43.10.232, our jurisdiction extends only to those matters that are criminal in nature and that are specifically referenced in your letter.

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Still, as reliable or unreliable as each source of information appeared at first glance, each and every allegation was pursued to its end.

We also recognized that there were limits to any *criminal* investigation, even one as important as this one. For example, many of the allegations, even if assumed to be true, far surpassed any conceivable applicable statute of limitation and were incapable of prosecution. Many others were simply non-criminal in nature. The most apparent of these is why Chief Brame was hired and promoted through the ranks. While parts of the criminal investigation touched on these and many other important issues, they simply did not, upon further examination, give rise to a need for a further criminal probe or criminal charges. The fact that many of the questions raised did not lend themselves to criminal review in no way diminishes their importance. Rather, it merely recognizes that any criminal investigation has boundaries, and that there are other, more appropriate forums within which the answers to these questions must be sought.<sup>5</sup>

On September 4, 2003, after an extensive investigation, the State Patrol referred one matter they believe warranted review by the undersigned prosecutors. This matter involved an allegation that Assistant Chief Catherine Woodard trespassed at the residence of Lane and Patty Judson, Crystal Brame's parents, on April 11, 2003. On October 24, 2003, the Catherine Woodard matter was supplemented with additional reports at our request. Our analysis of this referral will be discussed in detail below.

## II. PROSECUTION STANDARDS AND GUIDELINES

As you know, in reviewing any criminal matter that has been submitted to us, we are guided by the Rules of Professional Conduct (RPC), particularly those that pertain to prosecutors. Of note in this instance is RPC 3.8(a): "A prosecutor in a criminal case shall...[r]efrain from prosecuting a charge that the prosecutor knows is not supported by probable cause." We read this rule to mean that the prosecutor must act as a gatekeeper in probable cause determinations.

Consideration was also given to filing standards enumerated in RCW 9.94A.411(2)(a). The applicable legal standards are:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder...

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

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<sup>5</sup> In this case, the non-criminal forums include the possibility of internal affairs review, the Washington Association of Sheriff's and Police Chiefs (WASPC) inquiry, and a civil claim and/or lawsuit.

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Our review was confined to considering only that evidence that would be admissible, or at least likely admissible, at trial. As we noted above, there has been no shortage of opinion about this matter or Assistant Chief Woodard in particular. However, filing considerations must not be made on the basis of public sentiment, and convictions cannot be secured on the basis of opinion and speculation.

### III. CRIMINAL REFERRAL – ASSISTANT CHIEF CATHERINE WOODARD

As noted above, the single criminal file referred for our review involved Assistant Chief Catherine Woodard. The allegations made against her varied, but generally fell into three categories. For clarity, they are discussed independently.

#### A. Criminal Trespass in the Second Degree

It is alleged that Assistant Chief Woodard committed a criminal trespass at the residence of Lane and Patty Judson in Gig Harbor on April 11, 2003. As noted above, Crystal Brame was living at their residence with her two children at the time. A corollary allegation to the trespass is that Assistant Chief Woodard may have intimidated Crystal Brame at her parent's residence and at other times. To fully understand what transpired at the Judson's residence on April 11<sup>th</sup>, however, some background information may be helpful.

On February 24, 2003, Crystal Brame, through her attorney Joseph Lombino, instituted divorce proceedings in King County, WA. The public file contained an initial pleading that made reference to her concerns about her safety and the safety of her children. Subsequent declarations filed by Crystal Brame on March 26, 2003 and April 8, 2003 contained more pronounced and detailed allegations of abuse by David Brame. Chief Brame filed his own declaration, denying the allegations made by his wife and accusing her of being the physical aggressor in any altercations they may have had.

On the morning of April 10, 2003, there was a court hearing in King County regarding pending matters in the divorce action. Chief Brame was accompanied to that hearing by Assistant Chief Woodard, Tacoma Police Detective Barry McColeman, and Tacoma Police Public Affairs Officer James Mattheis. Crystal Brame was accompanied to the hearing by members of her family, including her parents, Lane and Patty Judson. At the conclusion of the court proceedings, various conversations occurred between the two attorneys and their respective clients. This involved the attorneys conversing with each other and then returning to their respective clients and those who had accompanied their clients to court.

According to detective McColeman and others, at one point, Ann Meath, Chief Brame's attorney, discussed matters relating to his visitation of the children. The attorneys had reached some agreement about David Brame picking up his children on April 11<sup>th</sup>. In detective McColeman's presence, Ms. Meath advised Chief Brame to take someone with him to pick up the children. Detective McColeman also recalls that Ms. Meath pointed to Assistant Chief Woodard and told Chief Brame to take her with him to pick up the children. At the time, Mr. Lombino, Crystal Brame, and her family were located elsewhere.

According to Ms. Meath, she then advised Crystal Brame's attorney, Mr. Lombino, that Assistant Chief Woodard would accompany Chief Brame to pick up the children. The Judsons responded by expressing concern that under no circumstances should Assistant Chief Woodard go to their residence. *Ms. Meath advised detectives that in the back and forth negotiations that*

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*were going on between the two attorneys, she does not recall if she ever advised Assistant Chief Woodard that she was not to accompany Chief Brame to the Judson's home or that the Judsons objected to her presence at their home.* It is clear from the court documents, however, that there was no restraining order in effect barring Assistant Chief Woodard, or anyone else, from the Judson's residence or from having contact with Crystal Brame or the Judsons.

Prior to late March 2003, the relationship between Assistant Chief Woodard and Crystal Brame appeared to have been cordial. In the months preceding the divorce action, Crystal Brame had mailed thank-you cards to Assistant Chief Woodard thanking her for a variety of things, including small gifts she had given the Brame children on holidays. Their relationship, however, apparently became strained at the very end of March when Assistant Chief Woodard, previously on an extended training detail, returned a telephone call that Crystal Brame made to her.

It is probable that Chief Brame at least encouraged, if not ordered, Assistant Chief Woodard to return his estranged wife's call to her and directed her to take notes of the conversation. In that call, Assistant Chief Woodard attempted, in effect, to mediate their marriage problems. At various times in the conversation, she attempted to talk Crystal Brame out of the divorce, at least until she had time to think things over. In Assistant Chief Woodard's notes of the conversation, she documented the points she wanted to make to Crystal Brame: (1) that Crystal Brame needed to slow the divorce process and seek counseling with her husband; (2) that Chief Brame, contrary to Crystal Brame's beliefs, had not engaged in any extramarital affairs; and (3) that the Brames needed to put their children first.

According to Assistant Chief Woodard's notes and recollections of that call, Crystal Brame was steadfast in the conversation that she would proceed with the divorce, that she knew a different man than the one his employees saw at work, and that her husband had repeatedly threatened to kill her. Assistant Chief Woodard, apparently seeking to allay her concerns, told her that her husband would never hurt her.

There appears to be little dispute as to what occurred at the Judson's residence immediately prior to Assistant Chief Woodard's and Chief Brame's entry to the gated community to pick up the children on April 11<sup>th</sup>. The Judson's residence is located in a gated community, and to gain access to the community, Chief Brame and others were required to stop at the guard post and announce their presence. At the Judson's request, the guard was required to call the Judson's residence and obtain permission for the visitors to enter. In addition, earlier that afternoon, Mrs. Judson called the guardhouse to advise them that Chief Brame would arrive some time later in the day.

The gate guard, Michael Berquist, was interviewed about his contact that evening with Chief Brame and Assistant Chief Catherine Woodard. According to Mr. Berquist, at approximately 5:00 p.m., Chief Brame appeared at the gate. Chief Brame was driving his personal vehicle and was not in uniform. No weapons were readily visible on his person or in the car. The only other occupant of the vehicle, Assistant Chief Woodard, was seated in the front passenger seat of Chief Brame's car. Assistant Chief Woodard was also not in uniform, nor was a weapon visible on her person. Mr. Berquist stated that Chief Brame said little during the contact, other than to confirm that he was David Brame. Mr. Berquist recalled that Assistant Chief Woodard said nothing while the car was at the gate waiting for entry.

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After learning who he was, Mr. Berquist called the Judson's residence and spoke with Mrs. Judson. As he recalled the conversation, Mr. Berquist advised Mrs. Judson that "Brame's here," meaning to convey that "Brame is here." Mrs. Judson, however, interpreted the conversation to mean that *the Brames* (plural form) were at the gate. After hanging up with the guard, Mrs. Judson remarked to her husband that it was odd that there was more than one Brame present at the gate, but dismissed it because she thought perhaps Chief Brame was accompanied by his father.

Because they made it clear at the court hearing to Ms. Meath that Assistant Chief Woodard was not welcome at their residence, the Judsons were surprised that she arrived with Chief Brame to pick up the children. It is probable, however, based on Ann Meath's statement and the weight of the other evidence, that Assistant Chief Woodard was never told she should not go to the home. What occurred next is where the various recollections part ways.

Lane Judson confirmed that his wife answered the telephone from the gate guard advising them that the Brames were there. He and his wife were puzzled by the reference, and within a few minutes, he, his wife, and Crystal Brame opened the door and found Assistant Chief Woodard on the front steps. Chief Brame stood a few feet behind her. Upon seeing Assistant Chief Woodard, Crystal Brame asked Woodard what she was doing there. Assistant Chief Woodard replied that she was there "to support David."

Mr. Judson stated, that upon seeing Assistant Chief Woodard, his mind was "reeling." One concern was that the Brame children, ages eight and five, would see their father with another woman. Mr. Judson then relates that he, his wife, and Crystal Brame all told Assistant Chief Woodard that she was not supposed to be there and told her to leave. According to Mr. Judson, after Assistant Chief Woodard was asked to leave, Crystal Brame then asked her for the clothing that Assistant Chief Woodard was holding in a bag. The day before, Crystal Brame had asked her husband, through their attorneys, to bring some of her belongings from their residence with him when he came to pick the children up. Assistant Chief Woodard was apparently holding these items in a bag when she appeared at the door. Mr. Judson related that Assistant Chief Woodard jerked the bag back as Crystal Brame reached for it, telling her that "I will show you what I have chosen for you," or words to that effect. Seeing this, Mr. Judson took the bag from Assistant Chief Woodard, brought it inside the entryway, and then stepped back outside. The Brame children were still waiting just inside the door to go with their father at the time.

As Mr. Judson stepped back outside, he encouraged his wife and daughter to refrain from further conversation with Assistant Chief Woodard so they could avoid upsetting the children and expedite their departure from the home with their father. As he did so, he noticed Assistant Chief Woodard standing at what he describes as "parade rest," with her arms behind her and her feet spread apart. Mr. Judson mimicked her stance and asked her if she was trying to intimidate him. Assistant Chief Woodard immediately dropped her arms to her side and just stood there. Mr. Judson then took a few items from the house that the children would need while with their father and placed them on the front steps. As Chief Brame placed the items in the car, the children were accompanied to the car. Mr. Judson remembers that one of the two children was crying at the time. Once at the car, Crystal Brame kissed her children good-bye and Chief Brame, Assistant Chief Woodard, and the two children drove off. By all accounts, the entire matter lasted just a few minutes.

Mrs. Judson recalls much of the incident in the same way as her husband. After Mrs. Judson answered the telephone call from the gate guard advising her that the "Brames" were

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there, she hung up without further inquiry. As she thought about it, she told her husband that she wasn't sure that she had heard it right because the guard had told her the Brame's were there.

Like her husband, Mrs. Judson was shocked to see Assistant Chief Woodard at the door. She recalls asking her why she was there and recalls being told that she was there to "support David." Mrs. Judson replied that the real reason was because Assistant Chief Woodard was "nosey." While Mrs. Judson did recall telling Assistant Chief Woodard to leave, her recollection of when she did so was not as clear as her husband's recollection (i.e. at the beginning of the conversation).

After Chief Brame, Assistant Chief Woodard, and the Brame children left the home together, Mrs. Judson stated her daughter went to notify the gate guards that only family members were to be allowed on the premises. As guard Michael Berquist described it, Crystal Brame told him that Assistant Chief Woodard had been brought to the home to harass her. Crystal Brame then went on to describe many of the forms of abuse inflicted upon her by her husband, including his threats to kill her, rapes, and other assaultive acts. As she told Mr. Berquist about this, she broke down and sobbed. Crystal Brame asked the guard to make it explicit that no one was to accompany her husband to the residence and requested that he notify the county sheriff of what had occurred at the home.<sup>6</sup>

Several hours later, at approximately midnight, Mrs. Judson called 911 to report the incident at their home.<sup>7</sup> Within a few minutes, Crystal Brame came on the line to explain to the operator what had occurred at the home earlier in the evening. In that call, Crystal Brame told the operator of the past death threats made by her husband and described the intimidation by his staff, specifically Assistant Chief Woodard. Crystal Brame asked that a report be taken to document the past death threats as well as that fact the "he lied to the guard to get in..."

Following the 911 call, Sgt. Kyle Wilson of the Pierce County Sheriff's Office contacted Crystal Brame by phone to obtain more information on her call. As with the 911 operator, Crystal Brame detailed past acts of violence by her husband and the intimidation by those who worked for him. When Sgt. Wilson asked her if there had been any threats at her parent's house or if there had been any crimes committed while they were there, she replied that there had not been.<sup>8</sup> Sgt. Wilson believed that Crystal Brame's primary concern, however, was Assistant Chief Woodard's possible trespass at her parent's residence and her desire to have it documented. After some time was spent discussing various aspects of the divorce proceeding and whether a protection order had ever been entered, Sgt. Wilson documented the call in his notebook.<sup>9</sup>

Based on the information provided by Crystal Brame, Sgt. Wilson did not write a general report because he believed that the incident was a civil matter and that no crime had occurred, outside the possibility of a "borderline trespass." By the end of the call, Crystal Brame seemed

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<sup>6</sup> Off duty county sheriff's deputies patrol the grounds of the gated community and had regular contact with the gate guards.

<sup>7</sup> The transcript of that 911 call lists the time of the call as commencing at "...1233 hours on April 11<sup>th</sup>, 2003." Based on other statements, it is clear this call occurred in the early morning of April 12<sup>th</sup>.

<sup>8</sup> Crystal Brame was not a lawyer, and while she was probably familiar with various laws by virtue of her college degree in Criminal Justice and an internship with the Tacoma Police Department in her senior year, she could not have been reasonably expected to know the elements of various crimes, including Criminal Trespass.

<sup>9</sup> The call was also documented and retained through the 911 call system.

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satisfied with that result and gave Sgt. Wilson the impression that she would pursue the matter through her attorney.

Assistant Chief Woodard provided her version of events to investigators from the Washington State Patrol. Assistant Chief Woodard stated that on April 10<sup>th</sup>, outside the courtroom, she was directed by Chief Brame's attorney to accompany him to the Judson residence. At no time did she have any information that this directive had been revoked at the request of the Judson family. In fact, when she left the courthouse, she had been asked to obtain a diamond pendant and some other items from the Brame residence for Crystal Brame and to bring them with her when she arrived to pick up the children.<sup>10</sup>

Prior to going to the Judson's residence, Assistant Chief Woodard drove her personal vehicle to meet Chief Brame at his former Gig Harbor residence. She reported that Chief Brame was despondent and watching a videotape of his wedding. Because Assistant Chief Woodard and Crystal Brame had talked about clothes before, she went through her closets and selected some clothes she thought Crystal might like. As requested, she also obtained Crystal Brame's skates and some jewelry.

Assistant Chief Woodard's version of what occurred at the gate to the neighborhood is the same as Mr. Berquist's. At no time did she or Chief Brame represent themselves as a couple or use a ruse to gain entry into the gated community. At the residence, believing her relationship with Crystal Brame to still be on good footing, she told Chief Brame to let her do the talking and for him to not get in an argument with his wife. She then went to the door. At the door, Assistant Chief Woodard described being greeted by yelling from Crystal Brame that she was not wanted there. Crystal Brame was soon joined by her parents who also told her she was not wanted there. According to Assistant Chief Woodard, Crystal Brame was also waving a piece of paper in her face and telling her that there was a court order prohibiting her from being at the residence.<sup>11</sup>

Believing that she had been expected, Assistant Chief Woodard was "dumbfounded" by the reception she received at the door. In her description, the scene was chaotic, but she believes Mrs. Judson grabbed the bag of clothes from her hand. Thereafter, Mr. Judson stood very close to her and demanded to know, whether by standing with her thumbs hooked in her pockets, she intended to be intimidating. At that, she immediately took her thumbs out of her pockets. Other sources relate that Assistant Chief Woodard typically stands in this fashion.

Upon arrival at the home, Assistant Chief Woodard could see the children waiting to be picked up in the entryway. As the events unfolded, she noted the children did not seem to be upset. According to Assistant Chief Woodard, when they attempted to leave, Crystal Brame went to the car and placed herself between Chief Brame and the car door. Crystal Brame then demanded to know Chief Brame's apartment number and his telephone number. She also told him not to turn off his phone and cautioned him to not ask the children about her. As they drove away, Assistant Chief Woodard stated that she was so upset by what had occurred that she could only stare out the car window and cry. This latter fact was later confirmed by Chief Brame in a conversation with another person.

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<sup>10</sup> According to other sources, Chief Brame initially asked his personal assistant, Jeannette Blackwell, to accompany him to the residence. Ms. Blackwell declined, however, because she planned to be on vacation in California on April 11<sup>th</sup>.

<sup>11</sup> In fact, there was no court order prohibiting such contact.



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As part of the general investigation into this allegation, the State Patrol was provided access to Crystal Brame's computer. One of the letters obtained from the computer mentions her version of what occurred at the residence on April 11<sup>th</sup>. This letter was addressed to her attorney, Joseph Lombino. While the letter is undated, it clearly was written while Chief Brame was in Las Vegas, the week before April 26<sup>th</sup>. In the letter, Crystal Brame wrote that she repeatedly asked Assistant Chief Woodard to leave her parent's home and that she refused to do so. Crystal Brame's letter also confirms her father's story that Assistant Chief Woodard jerked the bag of clothes from her reach, relates that Assistant Chief Woodard refused to leave the Judson's home, and describes that Woodard told her that she was going to be "very involved in (their) divorce."<sup>12</sup> It is also clear from this letter, however, that even after she was asked to leave, the Judsons and Crystal Brame all continued to engage Assistant Chief Woodard in additional conversation about the clothes, her role in the divorce, and other matters.

The most plausible, possible criminal act arising out of these facts is Criminal Trespass in the Second Degree. A person commits the misdemeanor offense of Criminal Trespass in the Second Degree when he or she "knowingly enters or remains unlawfully in or upon the premises of another..." RCW 9A.52.080.

The weight of evidence in this matter would lead a reasonable and objective trier of fact to the conclusion that Assistant Chief Woodard had no reason to know that she was not welcome at the Judson's residence prior to her arrival at their door on April 11, 2003. While this was likely the result of Ms. Meath's and/or Mr. Lombino's failure to communicate the Judsons' wishes to Assistant Chief Woodard, we have no evidence to prove she was told to do anything other than accompany Chief Brame to the home. Thus, when she arrived at the residence, she had a good faith basis to believe that she was lawfully entitled to be there.

Once Assistant Chief Woodard was at the home, however, the Judsons initially asked her to leave and she did not *immediately* comply. On the face of it, this alone might constitute a criminal trespass. However, after the Judsons and Crystal Brame initially asked Assistant Chief Woodard to leave, they continued to engage her in conversation. Assistant Chief Woodard could have walked away from the home at that point. Viewed from her perspective, however, that would have left Chief Brame alone to deal with his estranged wife, and Assistant Chief Woodard

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<sup>12</sup> The contents of this letter are almost certainly inadmissible hearsay. Still, the inability to admit this letter at trial has little, if any, impact on the decision we reach with regard to this criminal referral.

<sup>13</sup> As a side note, this letter contains one of the most disturbing and prescient statements we have ever come across in our collective professional experience:

\*\*\* One very important issue remaining (is) the IMMEDIATE issuance of the restraining order. I would like this filed with the court today. I have been informed that the Tacoma New (sic) Tribune is running a story on this divorce, and its many issues court documents (sic). I feel this is extremely important that you are aware of this. I strongly fear for my personal safety, and I am strongly requesting that the restraining order be put in place today. There is already information about this divorce on the internet. My concern is when the respondent returns from his Las Vegas trip he will come after me. I am pleading with you to please put the restraining order in place immediately for my personal protection.

Mr. Judson reports that the letter was written by his daughter on the evening of Tuesday, April 22, 2003. He drove his daughter to her attorney's office the next day and she reportedly hand delivered it to Mr. Lombino on Wednesday, April 23, 2003.

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stated that she was concerned that he would get into an argument with his wife if she left. As a final matter, Assistant Chief Woodard's only means of transportation was Chief Brame's personal vehicle and the Brame children were still in the process of having their belongings loaded into the car before they could all leave together. Under these facts, Assistant Chief Woodard was clearly in the process of leaving the residence as requested, albeit not as quickly as the Judsons and Crystal Brame wanted. Some reasonable amount of time, however, must be allowed for her to meet their request.

At most, Assistant Chief Woodard remained at the residence just a few minutes. She left as soon as practicable, given the fact that she was dependent on Chief Brame for transportation, and he in turn, was waiting for his children. In addition, even after Assistant Chief Woodard was told to leave the property, the weight of evidence shows that she was engaged in further conversation by the Judsons and Crystal Brame that surpassed their demands that she leave. The crime of Criminal Trespass in the Second Degree cannot be supported by these facts.

## **B. Harassment.**

There is also a vague allegation that Crystal Brame had been "harassed" by Assistant Chief Woodard. This allegation arises out of the March 31<sup>st</sup> telephone conversation between Crystal Brame and Assistant Chief Woodard, Assistant Chief Woodard's appearance in court to support Chief Brame on April 10, 2003, and her presence at the Judson's residence on April 11<sup>th</sup>.

The term harassment carries with it numerous colloquial meanings, but only one legal definition. Under RCW 9A.46.020, harassment is defined as follows:<sup>14</sup>

(1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

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<sup>14</sup> The more specific crime of Telephone Harassment, RCW 9.61.230, was also considered and ruled out as a charging option.

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(2) A person who harasses another is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW, except that the person is guilty of a class C felony if either of the following applies: (a) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order; or (b) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person.

(3) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

There is no question that Crystal Brame, or any other reasonable person for that matter, would find Assistant Chief Woodard's behavior troublesome. Assistant Chief Woodard allowed herself to be interjected into the private lives of her superior and his wife. Regardless of her motives, at best, she demonstrated extraordinarily poor judgment, behaving in a way that revealed both a serious lack of insight as well as a failure to respect other's personal boundaries and privacy. There is no question that Assistant Chief Woodard was aware of at least the general nature of the accusations Crystal Brame was making against her husband, including the allegation that Chief Brame had pointed a gun at her and had otherwise threatened to kill her. For whatever reasons -- perhaps blind loyalty to her chief or fear of him -- Woodard elected to choose sides, dismiss Crystal Brame's troubling reports, and serve as a pawn in Chief Brame's attempt to reconcile with his wife. We would expect more from a police officer schooled in domestic violence issues.

We are constrained, however, to point out that bad judgment does not always equate with a criminal act. We have no proof that any of Assistant Chief Woodard's acts, as troubling as they were, rise to the level of criminal harassment as contemplated under RCW 9A.46.020, *supra*. While there is no question that she pried into Crystal Brame's personal life, there is nothing to indicate that she threatened Crystal Brame, her family, or her property in any fashion as is required by the criminal harassment statute. Nor can we establish, beyond a reasonable doubt, that she acted with malicious intent to harm Crystal Brame's mental health or physical well being.<sup>15</sup>

## **C. Failure to adequately investigate domestic violence.**

There is concern that Assistant Chief Woodard and other members of the Tacoma Police Department failed to adequately investigate the domestic violence allegations that were made by Crystal Brame. While we are aware that there is a civil lawsuit pending on this matter, we reviewed this matter in the context of our state's *criminal* laws.

The Washington State Legislature, mindful of the issues surrounding domestic violence, enacted RCW 10.99.010:

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<sup>15</sup> In addition to our analysis of the facts of this case, we are also mindful of legal considerations. In *State v. Williams*, 144 Wn. 2d 197 (2001), our State Supreme Court held that a portion of the harassment statute, RCW 9A.46.010(1)(a)(iv), is unconstitutionally vague to the extent that "mental health" is referenced.

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## **10.99.010. Purpose – Intent.**

The purpose of this chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. The legislature finds that the existing criminal statutes are adequate to provide protection for victims of domestic violence. However, previous societal attitudes have been reflected in policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between cohabitants and of the same crimes occurring between strangers. Only recently has public perception of the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the legislature that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

In keeping with the purpose of this statute, the Legislature also enacted additional laws regarding affirmative duties of police officers who are called upon to investigate acts of domestic violence. These include a mandatory arrest provision, the requirement to advise alleged victims of their legal rights, the duty to advise victims about the availability of shelters, and the requirement that the investigating officer write a report. *See RCW 10.99.030.* These statutes contemplate that the officer is acting in an *official* investigatory capacity for them to apply and violations of these statutes, in and by themselves, carry with them no criminal penalties. Such violations may, however, be evidence that can be used in an internal affairs or civil proceeding.

There is no question that Assistant Chief Woodard and others in the department were privy to conversations in which Chief Brame explained his version of the domestic violence taking place in his home. In these accounts, *he* was the recipient of the physical abuse in the relationship. As far back as 1996, Chief Brame had a fellow Tacoma police officer document his "injuries." He also made a report to local police to "document" the abuse he allegedly suffered at the hands of his wife.

The investigation revealed only two reported domestic violence complaints made by Crystal Brame to law enforcement. The most recent call occurred on the evening of April 11, 2003, after Assistant Chief Woodard and Chief Brame left the Judson's residence. As noted above, the call was initially placed by Mrs. Judson to report the alleged trespass. Once Crystal Brame got on the telephone, however, she also told the officer about the history of domestic violence in her marriage. The officer took notes about the trespass allegation and counseled her to speak with her attorney about the past abuse.

The only other domestic violence call that we are able to document being made by Crystal Brame to law enforcement occurred in 1996. In a declaration filed as part of his divorce case, Chief Brame alleged that he and his wife argued in 1996, and as a result, he left the house with his service weapons.<sup>16</sup> According to Chief Brame's declaration, after he left, his wife called

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<sup>16</sup> See Declaration of David A. Brame, filed under King County Cause Number 03-3-00358-5 KNT (divorce file), April 4, 2003.

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the police to make a report. When an officer arrived, the officer reportedly suggested to Crystal Brame that she and her husband seek counseling.

Tacoma police officer David Fischer was able to elaborate on this call. Sometime in 1996, officer Fischer was serving as an Acting Sergeant for the Tacoma Police Department. At the time, he was working the "graveyard" shift. One night he received a call from the county dispatch center advising him that Crystal Brame had made a 911 call to report a domestic dispute with her husband. Based on the call from the dispatch center, officer Fischer was under the impression that the Gig Harbor Police Department had already been dispatched to the home but had been unable to make contact with Crystal Brame. Officer Fischer then called the Brame residence and Crystal Brame answered the phone.

Officer Fischer recalls that when Crystal Brame answered the phone, she was crying and told him that she and her husband had just had an argument. Officer Fischer was under the impression that it was over something minor and that Crystal Brame's primary concern was that her husband had left the home with his service weapon. He asked Crystal Brame a number of times if the argument had become physical and each time she stated that it had not been. Crystal Brame told officer Fischer that she believed her husband might have gone to his parent's home. According to officer Fischer, Crystal Brame stated several times that she did not want her husband to get in any trouble at work because of her 911 call.

Officer Fischer advised Crystal Brame that he was going to call the Gig Harbor Police Department and ask them to send a car by her house. Probably because he sensed that she had not answered the door when they arrived earlier, he asked her if she would talk to an officer if one came by. Crystal Brame agreed to do so. Officer Fischer then called the Gig Harbor Police Department, advised them of his conversation with Crystal Brame, and asked them to check on her welfare. There does not appear to be a Gig Harbor Police Department report on this matter.

As it turned out, Assistant Chief Woodard was the Lieutenant on duty that evening. Officer Fischer reported his conversation with Crystal Brame to then Lt. Woodard. He also advised Lt. Woodard that he had called the Gig Harbor Police Department and asked them to check on Crystal Brame's welfare. Finally, he asked Lt. Woodard if he should write a report on the matter or go by David Brame's parents' house to see if he was alright. Lt. Woodard replied that no report was necessary and that he did not need to go by David Brame's parent's house as she would take care of it. That was the last officer Fischer heard of the matter.

There was one other call placed by Crystal Brame to law enforcement, but that appears to have been more in the nature of seeking information rather than to report a domestic violence incident. In the first half of April, 2003, Crystal Brame made a call to the Gig Harbor Police Department. That call was taken by records specialist Debra Yerry. Ms. Yerry reported that Crystal Brame called to inquire about restraining orders. Crystal Brame advised Ms. Yerry that she was going through a divorce and that she wanted to know what to do after she served her husband with a restraining order.<sup>17</sup> Without giving Ms. Yerry her husband's name, Crystal Brame indicated that her husband maintained firearms in the home and that concerned her. Ms.

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<sup>17</sup> On February 24, 2003 an ex-parte restraining order was entered by the court relating to financial matters and restraining both parties from removing the children from Washington. In Crystal Brame's declaration in support of that restraining order, the section pertaining to the surrender of firearms was marked: "Does not apply." Presumably, in making this call to the Gig Harbor Police Department, Crystal Brame was contemplating additional restraining orders.

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Yerry advised Crystal Brame to call 911 if there were any problems after the order was served. As noted above, there was no restraining order in place regarding firearms or "no contact" provisions at the time Crystal Brame was murdered.

The limited number of calls made by Crystal Brame to law enforcement does not mean that she was not abused. To the contrary, it has been our collective experience that the majority of domestic violence goes unreported. Anecdotal evidence suggests that the frequency of non-reporting is even higher where one of the spouses is a member of the law enforcement community. However, for the above statutes to apply, there has to have been some report made in an official capacity to a law enforcement official. The single call that did come to the attention of anyone in the Tacoma Police Department was the one taken by officer Fischer. However, this call appears to have been dispatched originally to the Gig Harbor Police Department. Even if that were not the case, officer Fischer appears to have appropriately and timely reported the incident to the Gig Harbor Police Department and requested that they respond to the matter.

Aside from the victim's hesitancy to report an abusive domestic partner who is a law enforcement officer, there are other special concerns and problems peculiar to this kind of domestic violence. For example, even if a report is made, there often remain substantial questions about which law enforcement agency should investigate the allegation, what protocols should be followed, and what a department should do when one of their officers has been accused of domestic violence. While these are important questions, they cannot and should not be answered in the context of this criminal review. As you know, we are constrained to work within the existing laws of this state. While none of Assistant Chief Woodard's foregoing acts rise to the level of meeting the legal definition of the crimes of harassment and criminal trespass, we do believe there may be sufficient evidence of misconduct to merit review by an internal affairs panel.

## IV. RECOMMENDATIONS

After nearly six months of scrutiny by detectives of the Washington State Patrol Criminal Investigations Division, the Patrol found no evidence to indicate that the Tacoma Police Department is a *criminally* corrupt organization. To the contrary, there is every indication that the police officers on the street are protecting and serving the public each and every day in a highly competent and professional manner. There are, however, indications that the department is "*culturally*" deficient in some very important areas and as in any organization, this culture has been defined by management. As chief for approximately eighteen months prior to his suicide, David Brame certainly did not create all of these deficiencies. His leadership style, which included a requirement of absolute loyalty to him personally, only exacerbated some of the deficiencies that already existed in the department. Chief Brame's domineering leadership style and his maneuverings to get and keep his job seem to have deepened this "*culturally* deficient" working environment.

In the course of their criminal investigation, the Washington State Patrol looked at virtually every aspect of the department, from promotional testing to allegations of illicit "sex clubs." They were able to come away with only the above-referenced criminal referral relating to the conduct of Catherine Woodard. The fact that there are no criminal acts that have been charged by the state in this matter must not be construed by anyone as a "stamp of approval" or as evidence that everything is working and working well in the Tacoma Police Department. As

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might be expected in a criminal probe as far-reaching as this one, we were left with some clear impressions that surpassed the scope of the criminal file we were asked to review.<sup>18</sup> Based on our review of the extensive investigative reports and materials compiled by the Washington State Patrol, we make the following recommendations.

The first recommendation we make is that the Tacoma Police Department should call for a thorough and objective internal affairs review concerning matters uncovered in the criminal investigation. In the course of our review for criminal charges, we have become aware of several instances of misconduct that do not rise to the level of a violation of our state's criminal laws. Nonetheless, this misconduct must be thoroughly investigated and reviewed, and if sustained, appropriate sanctions must be imposed. This would include of course, the allegations relating to Assistant Chief Woodard's actions outlined above. While we are unable to pursue criminal charges in the matters discussed above, we fully anticipate that the department will conduct the appropriate internal review of Assistant Chief Woodard's conduct.

Other members of the department were also implicated in alleged instances of misconduct. These instances of possible unprofessional or inappropriate conduct varied greatly in nature. One of the more unusual ones was the reference to sexual liaisons and "sex clubs" attended by some members or former members of the department. We are mindful that an individual's sex life is just that: the individual's. While much of this information appears to be exaggerated, a closer examination should be conducted to determine if promotions were made, or not made, on the basis of this type of activity. This type of activity was not foreign to Chief Brame. We concluded that, in fact, former Chief Brame sought out a sexual relationship with at least one officer under his command, and he was very forthcoming to many in his department about his other sexual activities and desires. We also now know, of course, that this was one of the precipitating events in his wife's filing for divorce. An internal affairs proceeding should be conducted to examine whether employment related decisions were made based on favoritism or involvement in sexual activities.

Included among the matters we believe should be submitted for an internal affairs review are the following:

- Whether Assistant Chief Catherine Woodard engaged in misconduct when she failed to act after a telephone call with Crystal Brame on March 31, 2003 and learned of the death threats made by Chief Brame against his wife, when she attended the April 10, 2003 court hearing, and/or when she failed to leave the Judson's residence after being asked to do so on April 11, 2003.

- Whether Public Information Officer James Mattheis and Detective Barry McColeman engaged in misconduct by attending the April 10, 2003 court hearing.

- Whether officers and employees of the Tacoma Police Department should have advised Chief Brame's supervisor about his failing job performance in the weeks preceding his death.

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<sup>18</sup> While the Woodard criminal file we were referred consisted of approximately 450 pages, we also reviewed thousands of pages of reports and evidence compiled by the Washington State Patrol that relate to non-criminal matters.

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- Whether officers and employees of the Tacoma Police Department should have advised Chief Brame's supervisor about his preoccupation with sex and sexual topics in the workplace.

- Whether the promotion of at least one Tacoma Police Department officer, and perhaps others, was made on the basis of inappropriate sexual activities or other relationships.

- Whether, in past disciplinary matters, favoritism and other inappropriate factors have played a role, calling into question the integrity and fairness of the disciplinary process in the department as a whole.

There will undoubtedly be additional matters for internal affairs or other disciplinary proceedings and we do not intend to limit the appropriate scope of an internal affairs review by this list. Our point has been to give you some indication of how significant these matters are and how important we believe it is to have some further issues addressed in a timely and impartial manner.

Our second recommendation is that the Tacoma Police Department seek the assistance of an independent law enforcement agency to conduct the necessary internal affairs review. Many internal affairs matters in other law enforcement agencies have been investigated by the Washington State Patrol. It would also appear to make great sense to ask the Patrol to conduct the review from this point forward, as they have already reviewed the vast majority of relevant facts in this case. We can attest that the Patrol has a tremendous amount of experience in the internal affairs process, and because they have already conducted the investigations, the "learning curve" will be diminished. This, in turn, would serve to expedite the process and bring this part of the process to a close in a timely manner.

Our third recommendation grows out of a pattern that emerged in the reports in this investigation. In the course of our review, we came across several instances where members of the Tacoma Police Department recognized possible criminal law violations, but did not treat them as such. An alleged rape committed by Chief Brame in 1988 was handled through an internal affairs process, never investigated as a criminal matter, and never referred to a prosecutor for formal review. An allegation that a prominent businessman attempted to bribe a Tacoma police officer was never investigated as a criminal matter, never referred to a prosecutor for review, and was addressed solely as an internal affairs matter. After a prominent Tacoma figure was suspected of patronizing a prostitute in his car, high level Tacoma police officers, including at least one command staff member, became involved in discussions about how the reports should be written, perhaps giving the impression that there may have been an effort to conceal the matter entirely. Finally, when City Manager Ray Corpuz and his wife were suspected of insurance fraud, there appears to have been some institutional hesitancy to pursue the allegations. Corpuz was also likely "tipped off" to the investigation by at least one city official.<sup>19</sup>

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<sup>19</sup> The State Patrol re-investigated each of these troublesome examples. For many reasons, including the death of the suspect, the death of a critical witness, conflicting statements, and others, we are unable to prove any of these matters beyond a reasonable doubt at this time. How much the passage of time played in bringing about this result cannot be quantified. However, the passage of time alone, in this case often years, almost always undermines the ability to construct a prosecutable case. Only the Corpuz insurance fraud was reviewed by an outside prosecutor



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Because of elapsed time and proof problems, these matters are not ripe for an internal affairs review. But these examples illustrate that the Tacoma Police Department needs to develop clear and consistent policies about when the department should treat an internal complaint as a criminal matter and how they should address it once they have reached that conclusion. Given the above examples, we are left to ask if "policing their own" through the internal affairs system is a departmental policy, either formal or informal. If so, it is a bad practice and it obviously has not worked. While most, if not all, of the above-referenced matters may never have risen to the level of proof beyond a reasonable doubt, treating them as criminal matters first would have insured that the department was accountable to the people it serves. At the same time, it would not have impaired, in any way, the disciplinary function of the department. We recommend immediate action to develop a policy in this area and concerted efforts to ensure all officers and management in the organization understand and abide by that policy.

Our fourth recommendation centers on the payroll and timekeeping mechanisms that are currently in place in the Tacoma Police Department. In the course of their review, the State Patrol selected a representative sampling of timecards and overtime slips for officers in the department. While mindful of the nature of "shift work" and special overtime considerations in any police department, what the detectives found concerned us all. The information they gathered does not appear, at this time, to implicate our state's criminal laws. Still, questions remain about the level of accountability and "checks and balances" that are in place in the department to protect the public purse. The State Patrol provided this information to auditors from the Washington State Auditor's Office and these auditors shared our concerns. As a result, we expect a timely audit on this part of the department.

Our fifth recommendation centers on one of the primary questions at issue in this matter; why David Brame was hired and promoted by the Tacoma Police Department in the first place? Again, the criminal investigation touched on many of the answers to this question and what was found by the State Patrol remains troubling. However, because the information that was learned does not appear to implicate our state's criminal laws, the review of this issue remains a question for a non-criminal setting. That review should detail the errors that were made in Chief Brame's hiring and promotion and a policy should emerge that will insure that these errors are not repeated. The information learned in the criminal investigation will undoubtedly assist in that process.

Our sixth and final recommendation involves the issue of domestic violence, in this case committed by a law enforcement officer. State law and generally accepted law enforcement protocols and procedures guide and govern how police officers should investigate acts of domestic violence in general. As we noted above, however, the victim of an abusive law enforcement officer faces special problems not encountered by other domestic violence victims. What are often lacking in these matters are departmental protocols and procedures to guide law enforcement officials when the alleged abuser is one of their own. We are aware that the Tacoma Police Department has made considerable progress in developing these protocols and procedures and that there are models that they can look to in other jurisdictions for assistance in this endeavor. What is clear at this time, however, is that whatever protocols and procedures are developed, they must be the result of a community process and they must be endorsed and

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and Mrs. Corpuz was prosecuted for her role in that fraud. In those instances where federal jurisdiction is involved, the Federal Bureau of Investigation continues their review.

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supported from the top of the Tacoma Police Department on down. In short, they must become part of the Tacoma Police Department's culture.

## V. CONCLUSION


There is no question that in the final weeks of his life, Chief Brame was emotionally despondent and deeply disturbed. To those who knew him and worked with him on a daily basis, this manifested itself in many ways: an unkempt appearance, loss of weight, missed meetings, lack of attention, and a preoccupation with losing his wife and his career. We have found no evidence, however, that anyone in the Tacoma Police Department predicted or could anticipate the homicidal path he would take and failed to act, thereby giving rise to criminal liability.

Those in Chief Brame's command staff, arguably the closest to him professionally and personally, were acutely aware that his job performance was in danger of hurting the department. Some took steps to bring this to the attention of Brame's supervisor, City Manager Ray Corpuz. According to Assistant Chief Woodard, she was one of those who did. Some took steps to counsel him through the divorce, and some even took steps to mediate the marriage. Virtually all were, at one time or another, subjected to Chief Brame's compulsive need to discuss his personal and professional life in excruciating detail.

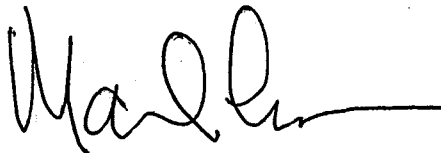
We would be remiss if we did not close with one final observation. If Chief Brame were alive today, he would unquestionably be prosecuted to the full extent of the law for his crimes. Largely because he died on April 26, 2003, our task has been to investigate an entire police department to search for at least part of the answer to the question "why?" In so doing, the perception may be that the integrity and professionalism of every member of the Tacoma Police Department is suspect. Care must be taken to ensure that this investigation not be viewed as an indictment of the vast majority of the men and women who comprise the Tacoma Police Department. From our perspective, the large majority of them are dedicated and caring professionals. They respond appropriately to issues surrounding domestic violence, and many other violent crimes, and too frequently, they are required to place themselves in harm's way as a result.

We remain ready to review additional criminal referrals if the need arises, as long as it comports with your grant of jurisdiction. Please call either one of us if there are questions or concerns that you have. It has been our pleasure to be able to assist your office in this very important matter.

Sincerely,



BRIAN T. MORAN  
Chief Criminal Prosecutor  
Assistant Attorney General



MARK LARSON  
Chief Criminal Prosecutor - King County  
Special Assistant Attorney General